

§ 1779.95

the amount was accrued by the lender. A copy of the promissory note and ledger will be attached. If the interest rate was a variable rate, the lender must include documentation of changes in the selected base rate and when the changes in the loan rate became effective.

(e) *Liquidation income.* Any net rental or other income that has been received by the lender from the collateral will be applied on the guaranteed loan debt.

(f) *Liquidation costs.* Certain reasonable liquidation costs will be allowed during the liquidation process. The liquidation costs must be submitted as a part of the liquidation plan. Such costs will be deducted from gross proceeds received from the disposition of collateral unless the costs have been previously determined by the lender (with Agency concurrence) to be protective advances. If changed circumstances after submission of the liquidation plan require a revision of liquidation costs, the lender will obtain the Agency's written concurrence prior to proceeding with the proposed changes. No in-house expenses of the lender will be allowed.

(g) *Protective advance losses.* In those instances where the lender made authorized protective advances, the lender may claim recovery for the guaranteed portion of any loss of monies advanced as well as interest resulting from such protective advances. These claims shall be included in the final Report of Loss.

(h) *Final loss approval.* After the final Report of Loss has been tentatively approved:

(1) If the actual loss is greater than any estimated loss payment, such loss will be paid by the Agency;

(2) If the actual loss is less than any estimated loss payment, the lender will reimburse the Agency;

(3) If the Agency conducted the liquidation, it will provide an accounting to the lender and will pay the lender in accordance with the Loan Note Guarantee.

(i) *Loss limits.* The amount payable by the Agency to the lender cannot exceed the limits contained in the Loan Note Guarantee. If the Agency conducts the liquidation, loss occasioned by accruing interest will be covered by the

7 CFR Ch. XVII (1–1–05 Edition)

guarantee only to the date the Agency accepts this responsibility. When the liquidation is conducted by the lender, loss occasioned by accruing interest will be covered to the extent of the guarantee to the date of final settlement provided the lender proceeds expeditiously with the liquidation plan approved by the Agency.

§ 1779.95 Future recovery.

After a loan has been liquidated and a final loss has been paid by the Agency, any future funds which may be recovered by the lender will be pro-rated between the Agency and the lender in accordance with the guaranteed percentage even if the Loan Note Guarantee has been terminated.

§ 1779.96 Termination of Loan Note Guarantee.

The Loan Note Guarantee under this part will terminate automatically:

(a) Upon full payment of the guaranteed loan; or

(b) Upon full payment of any loss obligation or negotiated loss settlement except for future recovery provisions; or

(c) Upon written request from the lender to the Agency, provided that the lender holds all of the guaranteed portion and the original Loan Note Guarantee is returned to the Agency.

§§ 1779.97–1779.99 [Reserved]

§ 1779.100 OMB control number.

The reporting and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget and have been assigned OMB control number 0572–0122.

PART 1780—WATER AND WASTE LOANS AND GRANTS

Subpart A—General Policies and Requirements

Sec.

1780.1 General.

1780.2 Purpose.

1780.3 Definitions and grammatical rules of construction.

1780.4 Availability of forms and regulations.

1780.5 [Reserved]

1780.6 Application information.

1780.7 Eligibility.

Rural Utilities Service, USDA

§ 1780.1

- 1780.8 [Reserved]
- 1780.9 Eligible loan and grant purposes.
- 1780.10 Limitations.
- 1780.11 Service area requirements.
- 1780.12 [Reserved]
- 1780.13 Rates and terms.
- 1780.14 Security.
- 1780.15 Other Federal, State, and local requirements.
- 1780.16 [Reserved]
- 1780.17 Selection priorities and process.
- 1780.18 Allocation of program funds.
- 1780.19 Public information.
- 1780.20–1780.23 [Reserved]
- 1780.24 Approval authorities.
- 1780.25 Exception authority.
- 1780.26–1780.30 [Reserved]

Subpart B—Loan and Grant Application Processing

- 1780.31 General.
- 1780.32 Timeframes for application processing.
- 1780.33 Application requirements.
- 1780.34 [Reserved]
- 1780.35 Processing office review.
- 1780.36 Approving official review.
- 1780.37 Applications determined ineligible.
- 1780.38 [Reserved]
- 1780.39 Application processing.
- 1780.40 [Reserved]
- 1780.41 Loan or grant approval.
- 1780.42 Transfer of obligations.
- 1780.43 [Reserved]
- 1780.44 Actions prior to loan or grant closing or start of construction, whichever occurs first.
- 1780.45 Loan and grant closing and delivery of funds.
- 1780.46 [Reserved]
- 1780.47 Borrower accounting methods, management reporting and audits.
- 1780.48 Regional commission grants.
- 1780.49 Rural or Native Alaskan villages.
- 1780.50–1780.52 [Reserved]

Subpart C—Planning, Designing, Bidding, Contracting, Constructing and Inspections

- 1780.53 General.
- 1780.54 Technical services.
- 1780.55 Preliminary engineering reports and Environmental Reports.
- 1780.56 [Reserved]
- 1780.57 Design policies.
- 1780.58–1780.60 [Reserved]
- 1780.61 Construction contracts.
- 1780.62 Utility purchase contracts.
- 1780.63 Sewage treatment and bulk water sales contracts.
- 1780.64–1780.66 [Reserved]
- 1780.67 Performing construction.
- 1780.68 Owner's contractual responsibility.
- 1780.69 [Reserved]
- 1780.70 Owner's procurement regulations.
- 1780.71 [Reserved]

- 1780.72 Procurement methods.
- 1780.73 [Reserved]
- 1780.74 Contracts awarded prior to applications.
- 1780.75 Contract provisions.
- 1780.76 Contract administration.
- 1780.77–1780.79 [Reserved]

Subpart D—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants

- 1780.80 General.
- 1780.81 Policies related to use of bond counsel.
- 1780.82 [Reserved]
- 1780.83 Bond transcript documents.
- 1780.84–1780.86 [Reserved]
- 1780.87 Permanent instruments for Agency loans.
- 1780.88 [Reserved]
- 1780.89 Multiple advances of Agency funds using permanent instruments.
- 1780.90 Multiple advances of Agency funds using temporary debt instruments.
- 1780.91–1780.93 [Reserved]
- 1780.94 Minimum bond specifications.
- 1780.95 Public bidding on bonds.
- 1780.96–1780.100 [Reserved]

AUTHORITY: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

SOURCE: 62 FR 33478, June 19, 1997, unless otherwise noted.

Subpart A—General Policies and Requirements

§ 1780.1 General.

(a) This part outlines the policies and procedures for making and processing direct loans and grants for water and waste projects. The Rural Utilities Service (RUS) shall cooperate fully with State and local agencies in making loans and grants to assure maximum support to the State strategy for rural development. Agency officials and their staffs shall maintain coordination and liaison with State agency and substate planning districts.

(b) The income data used in this part to determine median household income must be that which most accurately reflects the income of the service area. The median household income of the service area and the nonmetropolitan median household income of the State will be determined from income data from the most recent decennial census of the United States. If there is reason to believe that the census data is not

an accurate representation of the median household income within the area to be served, the reasons will be documented and the applicant may furnish, or the Agency may obtain, additional information regarding such median household income. Information will consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable impartial source. The nonmetropolitan median household income of the State may only be updated on a national basis by the RUS National Office. This will be done only when median household income data for the same year for all Bureau of the Census areas is available from the Bureau of the Census or other reliable sources. Bureau of the Census areas would include areas such as: Counties, County Subdivisions, Cities, Towns, Townships, Boroughs, and other places.

(c) RUS debt instruments will require an agreement that if at any time it shall appear to the Government that the borrower is able to refinance the amount of the indebtedness to the Government then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take all such actions as may be required in connection with such loan.

(d) Funds allocated for use under this part are also for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the State's boundaries. Native Americans residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State. Such tribes might not be subject to State and local laws or jurisdiction. However, any requirements of this part that affect applicant eligibility, the adequacy of RUS's security, or the adequacy of service to users of the facility and all other requirements of this part must be met.

(e) RUS financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

(f) Any processing or servicing activity conducted pursuant to this part involving authorized assistance to Agency employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this title. Applicants for assistance are required to identify any known relationship or association with a RUS employee.

(g) Water and waste facilities will be designed, installed, and operated in accordance with applicable laws which include but are not limited to the Safe Drinking Water Act, Clean Water Act and the Resource Conservation and Recovery Act.

(h) RUS financed facilities will be consistent with any current development plans of State, multijurisdictional areas, counties, or municipalities in which the proposed project is located.

(i) Each RUS financed facility will be in compliance with appropriate State or Federal agency regulations which have control of the appropriation, diversion, storage and use of water and disposal of excess water.

(j) Water and waste applicants must demonstrate that they possess the financial, technical, and managerial capability necessary to consistently comply with pertinent Federal and State laws and requirements. In developing water and waste systems, applicants must consider alternatives of ownership, system design, and the sharing of services.

(k) Applicants should be aware of and comply with other Federal statute requirements including but not limited to:

(1) *Section 504 of the Rehabilitation Act of 1973*. Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794 *et seq.*), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied

Rural Utilities Service, USDA

§ 1780.3

the benefits of, or be subjected to discrimination under any program or activity receiving RUS financial assistance;

(2) *Civil Rights Act of 1964*. All borrowers are subject to, and facilities must be operated in accordance with, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and subpart E of part 1901 of this title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by §1901.202(e) of this title;

(3) *The Americans with Disabilities Act (ADA) of 1990*. This Act (42 U.S.C. 12101 *et seq.*) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by State and local public entities which provides services, programs and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities which accommodate the public; and

(4) *Age Discrimination Act of 1975*. This Act (42 U.S.C. 6101 *et seq.*) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 1780.2 Purpose.

Provide loan and grant funds for water and waste projects serving the most financially needy communities. Financial assistance should result in reasonable user costs for rural residents, rural businesses, and other rural users.

§ 1780.3 Definitions and grammatical rules of construction.

(a) *Definitions*. For the purposes of this part:

Agency means the Rural Utilities Service and any United States Department of Agriculture (USDA) employee acting on behalf of the Rural Utilities Service in accordance with appropriate delegations of authority.

Agency identified target areas means an identified area in the State strategic plan or other plans developed by the Rural Development State Director.

Approval official means the USDA official at the State level who has been delegated the authority to approve loans or grants.

Equivalent Dwelling Unit (EDU) means the level of service provided to a typical rural residential dwelling.

Parity bonds means bonds which have equal standing with other bonds of the same Issuer.

Poverty line means the level of income for a family of four, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

Processing office means the office designated by the State program official to accept and process applications for water and waste disposal assistance.

Project means all activity that an applicant is currently undertaking to be financed in whole or part with RUS assistance.

Protective advances are payments made by a lender for items such as insurance or taxes in order to preserve and protect the security or the lien or priority of the lien securing the loan.

Rural and rural areas means any area not in a city or town with a population in excess of 10,000 inhabitants, according to the latest decennial census of the United States.

Rural Development means the mission area of the Under Secretary for Rural Development. Rural Development State and local offices will administer this water and waste program on behalf of the Rural Utilities Service.

RUS means the Rural Utilities Service, an agency of the United States Department of Agriculture established pursuant to section 232 of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103-354, 108 Stat. 3178), successor to the Farmer's Home Administration and the Rural Development Administration with respect to certain water and waste disposal loan and grant programs.

Service area means the area reasonably expected to be served by the project.

Servicing office means the office designated by the State program official